THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.24844 OF 2005

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Dated: 22-11-2005

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Between

P. Roja Ramani, W/o. Mohan Rao, R/o. Botikirlapadu village, Kanigiri Mandal, Prakasam District.

...PETITIONER

AND

The District Collector, Ongole, Prakasam District and others.

...RESPONDENTS

ORDER:

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Petitioner seeks a Writ of Mandamus to declare the proceedings dated 09.11.2005 in Ro.CS2/3832/2005 issued by the first respondent as illegal and arbitrary.

Petitioner is authorized dealer of the Fair Price Shop of Botikirlapadu village of Kanigiri Mandal. The Enforcement Deputy Tahsildar, Kanigiri inspected the said shop of the petitioner on 30.07.2004 and found the petitioner collecting higher rates from the cardholders for the essential commodities and certain other irregularities and submitted a report. Based on said report dated 30.07.2004 the dealership of the petitioner was suspended by order dated 10.08.2004. Aggrieved by the same, petitioner filed an appeal along with an application for stay before the second respondent-Joint Collector, Ongole. The second respondent entertained the appeal by order dated 26.08.2004 but rejected the application for stay. Questioning the same the petitioner filed WP.No.15990 of 2004, which was disposed on 09.09.2004 directing the appellate authority to dispose of the appeal itself as

expeditiously as possible within a period of two weeks from the date of receipt of the order and till then there was a direction not to appoint any temporary or permanent dealer in respect of the said shop. Pursuant to the said order of this Court the appeal itself was disposed of by order dated 10.10.2005 by the Joint Collector, Ongole, setting aside the order of the Revenue Divisional Officer, Kandukur, as the records revealed that the allegations leveled against the petitioner are not so grave and the variation of rice
i.e. 40 Kgs excess is within the permissible limits, does not warrant suspension of dealership authorization.

Against the said order the fourth respondent who is one of the cardholders filed a revision before the District Collector, Ongole.
The District Collector while admitting the appeal granted stay of operation of the order of the Joint Collector and posted the matter for hearing on 16.11.2005.

I am of the opinion that the revisional authority ought not to have granted stay at the instance of the fourth respondent in the absence of any records to show that the petitioner has sold the essential commodities at higher rates and distributed the essential commodities with less weighment.

Having regard to the facts and circumstances of the case,
the impugned proceedings dated 09.11.2005 issued by the District Collector, Ongole, granting stay of the operation of the order of the Joint Collector is set aside and the first respondent is directed to consider and dispose of the appeal itself after hearing the petitioner as well as the fourth respondent, if not already disposed on 16.11.2005, in accordance with law within a period of four weeks from the date of receipt of this order.

The writ petition is accordingly allowed.

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V. ESWARAIAH, J

November 22, 2005

DSK